

West's Oregon Revised Statutes Annotated

Title 11. Domestic Relations

Chapter 107. Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services;

Family Abuse Prevention (Refs & Annos)

Dissolution, Annulment and Separation (Refs & Annos)

O.R.S. § 107.097

107.097. Ex parte temporary custody or parenting time orders prohibited;  
exceptions; temporary protective order of restraint; contents of order; hearing

Currentness

(1) Except as otherwise provided in subsection (3) of this section, a court may not enter ex parte a temporary order under [ORS 107.095](#), [109.103](#) or [109.119](#) providing for the custody of, or parenting time with, a child.

(2)(a) A party may apply to a court for a temporary protective order of restraint by filing with the court an affidavit conforming to the requirements of [ORS 109.767](#).

(b) Upon receipt of an application under this subsection, the court may issue a temporary protective order of restraint restraining and enjoining each party from:

(A) Changing the child's usual place of residence;

(B) Interfering with the present placement and daily schedule of the child;

(C) Hiding or secreting the child from the other party;

(D) Interfering with the other party's usual contact and parenting time with the child;

(E) Leaving the state with the child without the written permission of the other party or the permission of the court; or

(F) In any manner disturbing the current schedule and daily routine of the child until custody or parenting time has been determined.

(c) A copy of the order and the supporting affidavit must be served on the other party in the manner of service of a summons under [ORCP 7](#). The order must include the following statement:

.....

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a request for a hearing. In the request you must tell the court and the other party that you object to the order and specifically why you disagree with the

representation of the status quo described in the order. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing or contact address.

.....

(3)(a) A court may enter ex parte a temporary order providing for the custody of, or parenting time with, a child if:

(A) The party requesting an order is present in court and presents an affidavit alleging that the child is in immediate danger; and

(B) The court finds, based on the facts presented in the party's testimony and affidavit and in the testimony of the other party, if the other party is present, that the child is in immediate danger.

(b) The party requesting an order under this subsection shall provide the court with telephone numbers where the party can be reached at any time during the day and a contact address.

(c) A copy of the order and the supporting affidavit must be served on the other party in the manner of service of a summons under [ORCP 7](#). The order must include the following statement:

.....

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a request for a hearing. In the request you must tell the court and the other party that you object to the order on the ground that the child was not in immediate danger at the time the order was issued. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing or contact address.

.....

(4)(a) A party against whom an order is entered under subsection (2) or (3) of this section may request a hearing by filing with the court a hearing request described in subsection (2) or (3) of this section at any time while the order is in effect.

(b) The court shall make reasonable efforts to hold a hearing within 14 days and shall hold a hearing no later than 21 days after receipt of the request for the hearing. The court shall notify each party of the time, date and place of the hearing.

(c) An order issued under subsection (2) or (3) of this section remains in effect through the date of the hearing. If the party against whom the order was entered fails to appear at the hearing without good cause, the court shall continue the order in effect. If the party who obtained the order fails to appear at the hearing without good cause, the court shall vacate the order.

(d) The issue at a hearing to contest:

(A) A temporary protective order of restraint is limited to a determination of the status quo at the time the order was issued. If the child's usual place of residence cannot be determined, the court may make any further order the court finds appropriate in the best interests of the child.

(B) A temporary order for the custody of, or parenting time with, a child is limited to whether the child was in immediate danger at the time the order was issued.

(5) The State Court Administrator shall prescribe the content and form of a request for a hearing described in subsections (2) and (3) of this section.

(6) As used in this section:

(a) "Child's usual place of residence" has the meaning given that term in [ORS 107.138](#).

(b) "Party's usual contact and parenting time," "present placement and daily schedule of the child" and "current schedule and daily routine of the child" have the meanings given "parent's usual contact and parenting time," "present placement and daily schedule of the child" and "current schedule and daily routine of the child" in [ORS 107.138](#).

#### **Credits**

[Laws 1995, c. 792, § 1](#); [Laws 1997, c. 136, § 1](#); [Laws 1997, c. 386, § 3](#); [Laws 1997, c. 707, § 6](#); [Laws 1999, c. 59, § 19](#); [Laws 1999, c. 649, § 44](#); [Laws 2007, c. 11, § 1](#), eff. Jan. 1, 2008.

O. R. S. § 107.097, OR ST § 107.097

Current with emergency legislation through Ch. 570 of the 2013 Reg. Sess. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

West's Oregon Revised Statutes Annotated

Title 11. Domestic Relations

Chapter 107. Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services;

Family Abuse Prevention (Refs & Annos)

Dissolution, Annulment and Separation (Refs & Annos)

O.R.S. § 107.101

107.101. Public policy regarding parenting

Currentness

It is the policy of this state to:

- (1) Assure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interests of the child;
- (2) Encourage such parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage;
- (3) Encourage parents to develop their own parenting plan with the assistance of legal and mediation professionals, if necessary;
- (4) Grant parents and courts the widest discretion in developing a parenting plan; and
- (5) Consider the best interests of the child and the safety of the parties in developing a parenting plan.

**Credits**

Laws 1997, c. 707, § 1.

Notes of Decisions (4)

O. R. S. § 107.101, OR ST § 107.101

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O.R.S. § 107.102

107.102. When parenting plan required; contents

Currentness

(1) In any proceeding to establish or modify a judgment providing for parenting time with a child, except for matters filed under [ORS 107.700](#) to [107.735](#), there shall be developed and filed with the court a parenting plan to be included in the judgment. A parenting plan may be either general or detailed.

(2) A general parenting plan may include a general outline of how parental responsibilities and parenting time will be shared and may allow the parents to develop a more detailed agreement on an informal basis. However, a general parenting plan must set forth the minimum amount of parenting time and access a noncustodial parent is entitled to have.

(3) A detailed parenting plan may include, but need not be limited to, provisions relating to:

- (a) Residential schedule;
- (b) Holiday, birthday and vacation planning;
- (c) Weekends, including holidays, and school in-service days preceding or following weekends;
- (d) Decision-making and responsibility;
- (e) Information sharing and access;
- (f) Relocation of parents;
- (g) Telephone access;
- (h) Transportation; and
- (i) Methods for resolving disputes.

(4)(a) The court shall develop a detailed parenting plan when:

(A) So requested by either parent; or

(B) The parent or parents are unable to develop a parenting plan.

(b) In developing a parenting plan under this subsection, the court may consider only the best interests of the child and the safety of the parties.

#### **Credits**

[Laws 1997, c. 707, § 2.](#)

#### [Notes of Decisions \(11\)](#)

O. R. S. § 107.102, OR ST § 107.102

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O.R.S. § 107.104

107.104. Public policy regarding settlement; court enforcement of settlement; remedies

Currentness

(1) It is the policy of this state:

(a) To encourage the settlement of suits for marital annulment, dissolution or separation; and

(b) For courts to enforce the terms of settlements described in subsection (2) of this section to the fullest extent possible, except when to do so would violate the law or would clearly contravene public policy.

(2) In a suit for marital annulment, dissolution or separation, the court may enforce the terms set forth in a stipulated judgment signed by the parties, a judgment resulting from a settlement on the record or a judgment incorporating a marital settlement agreement:

(a) As contract terms using contract remedies;

(b) By imposing any remedy available to enforce a judgment, including but not limited to contempt; or

(c) By any combination of the provisions of paragraphs (a) and (b) of this subsection.

(3) A party may seek to enforce an agreement and obtain remedies described in subsection (2) of this section by filing a motion, serving notice on the other party in the manner provided by [ORCP 7](#) and, if a remedy under subsection (2)(b) of this section is sought, complying with the statutory requirements for that remedy. All claims for relief arising out of the same acts or omissions must be joined in the same proceeding.

(4) Nothing in subsection (2) or (3) of this section limits a party's ability, in a separate proceeding, to file a motion to set aside, alter or modify a judgment under [ORS 107.135](#) or to seek enforcement of an ancillary agreement to the judgment.

**Credits**

[Laws 2001, c. 203, § 2](#); [Laws 2003, c. 576, § 108](#).

[Notes of Decisions \(11\)](#)

O. R. S. § 107.104, OR ST § 107.104

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## O.R.S. § 107.105

107.105. Contents of decree; care and custody of children; spousal support; disposition of property; creation of trust; name change; judgment for money; tax implications; appeal; supplemental proceedings for partition of property

## Currentness

(1) Whenever the court renders a judgment of marital annulment, dissolution or separation, the court may provide in the judgment:

(a) For the future care and custody, by one party or jointly, of all minor children of the parties born, adopted or conceived during the marriage and for minor children born to the parties prior to the marriage, as the court may deem just and proper under [ORS 107.137](#). The court may hold a hearing to decide the custody issue prior to any other issues. When appropriate, the court shall recognize the value of close contact with both parents and encourage joint parental custody and joint responsibility for the welfare of the children.

(b) For parenting time rights of the parent not having custody of such children and for visitation rights pursuant to a petition filed under [ORS 109.119](#). When a parenting plan has been developed as required by [ORS 107.102](#), the court shall review the parenting plan and, if approved, incorporate the parenting plan into the court's final order. When incorporated into a final order, the parenting plan is determinative of parenting time rights. If the parents have been unable to develop a parenting plan or if either of the parents requests the court to develop a detailed parenting plan, the court shall develop the parenting plan in the best interest of the child, ensuring the noncustodial parent sufficient access to the child to provide for appropriate quality parenting time and ensuring the safety of the parties, if implicated. The court shall deny parenting time to a parent under this paragraph if the court finds that the parent has been convicted of rape under [ORS 163.365](#) or [163.375](#) or other comparable law of another jurisdiction and the rape resulted in the conception of the child. Otherwise, the court may deny parenting time to the noncustodial parent under this subsection only if the court finds that parenting time would endanger the health or safety of the child. The court shall recognize the value of close contact with both parents and encourage, when practicable, joint responsibility for the welfare of such children and extensive contact between the minor children of the divided marriage and the parties. If the court awards parenting time to a noncustodial parent who has committed abuse, other than being convicted for rape as described in this paragraph, the court shall make adequate provision for the safety of the child and the other parent in accordance with the provisions of [ORS 107.718 \(6\)](#).

(c) For the support of the children of the marriage by the parties. In ordering child support, the formula established under [ORS 25.275](#) shall apply. The court may at any time require an accounting from the custodial parent with reference to the use of the money received as child support. The court is not required to order support for any minor child who has become self-supporting, emancipated or married or for any child who has ceased to attend school after becoming 18 years of age. A general judgment entered under this section may include an amount for support as requested in a petition filed under [ORS 107.085](#) or under a motion for relief made pursuant to [ORS 107.095 \(1\)\(b\)](#) for which a limited judgment was not entered,

payment of which commences no earlier than the date the petition or motion was served on the nonrequesting party, and the amount shall be considered a request for relief that has been decided by the general judgment for purposes of [ORS 18.082 \(3\)](#).

(d) For spousal support, an amount of money for a period of time as may be just and equitable for one party to contribute to the other, in gross or in installments or both. The court may approve an agreement for the entry of an order for the support of a party. A general judgment entered under this section may include an amount for support as requested in a petition filed under [ORS 107.085](#) or under a motion for relief made pursuant to [ORS 107.095 \(1\)\(b\)](#) for which a limited judgment was not entered, payment of which commences no earlier than the date the petition or motion was served on the nonrequesting party, and the amount shall be considered a request for relief that has been decided by the general judgment for purposes of [ORS 18.082 \(3\)](#). In making the spousal support order, the court shall designate one or more categories of spousal support and shall make findings of the relevant factors in the decision. The court may order:

(A) Transitional spousal support as needed for a party to attain education and training necessary to allow the party to prepare for reentry into the job market or for advancement therein. The factors to be considered by the court in awarding transitional spousal support include but are not limited to:

- (i) The duration of the marriage;
- (ii) A party's training and employment skills;
- (iii) A party's work experience;
- (iv) The financial needs and resources of each party;
- (v) The tax consequences to each party;
- (vi) A party's custodial and child support responsibilities; and
- (vii) Any other factors the court deems just and equitable.

(B) Compensatory spousal support when there has been a significant financial or other contribution by one party to the education, training, vocational skills, career or earning capacity of the other party and when an order for compensatory spousal support is otherwise just and equitable in all of the circumstances. The factors to be considered by the court in awarding compensatory spousal support include but are not limited to:

- (i) The amount, duration and nature of the contribution;
- (ii) The duration of the marriage;
- (iii) The relative earning capacity of the parties;

(iv) The extent to which the marital estate has already benefited from the contribution;

(v) The tax consequences to each party; and

(vi) Any other factors the court deems just and equitable.

(C) Spousal maintenance as a contribution by one spouse to the support of the other for either a specified or an indefinite period. The factors to be considered by the court in awarding spousal maintenance include but are not limited to:

(i) The duration of the marriage;

(ii) The age of the parties;

(iii) The health of the parties, including their physical, mental and emotional condition;

(iv) The standard of living established during the marriage;

(v) The relative income and earning capacity of the parties, recognizing that the wage earner's continuing income may be a basis for support distinct from the income that the supported spouse may receive from the distribution of marital property;

(vi) A party's training and employment skills;

(vii) A party's work experience;

(viii) The financial needs and resources of each party;

(ix) The tax consequences to each party;

(x) A party's custodial and child support responsibilities; and

(xi) Any other factors the court deems just and equitable.

(e) For the delivery to one party of such party's personal property in the possession or control of the other at the time of the giving of the judgment.

(f) For the division or other disposition between the parties of the real or personal property, or both, of either or both of the parties as may be just and proper in all the circumstances. In determining the division of property under this paragraph, the following apply:

(A) A retirement plan or pension or an interest therein shall be considered as property.

(B) The court shall consider the contribution of a party as a homemaker as a contribution to the acquisition of marital assets.

(C) Except as provided in subparagraph (D) of this paragraph, there is a rebuttable presumption that both parties have contributed equally to the acquisition of property during the marriage, whether such property is jointly or separately held.

(D)(i) Property acquired by gift to one party during the marriage and separately held by that party on a continuing basis from the time of receipt is not subject to a presumption of equal contribution under subparagraph (C) of this paragraph.

(ii) For purposes of this subparagraph, “property acquired by gift” means property acquired by one party through gift, devise, bequest, operation of law, beneficiary designation or inheritance.

(E) Subsequent to the filing of a petition for annulment or dissolution of marriage or separation, the rights of the parties in the marital assets shall be considered a species of co-ownership, and a transfer of marital assets under a judgment of annulment or dissolution of marriage or of separation entered on or after October 4, 1977, shall be considered a partitioning of jointly owned property.

(F) The court shall require full disclosure of all assets by the parties in arriving at a just property division.

(G) In arriving at a just and proper division of property, the court shall consider reasonable costs of sale of assets, taxes and any other costs reasonably anticipated by the parties.

(H)(i) If a party has been awarded spousal support in lieu of a share of property, the court shall so state on the record and shall order the obligor to provide for and maintain life insurance in an amount commensurate with the obligation and designating the obligee as beneficiary for the duration of the obligation.

(ii) If the obligor dies prior to the termination of spousal support and life insurance is not in force as provided in sub-subparagraph (i) of this subparagraph, the court may modify the method of payment of spousal support under the judgment or order of support from installments to a lump sum payment to the obligee from the estate of the obligor in an amount commensurate with the present value of the spousal support at the time of death.

(iii) The obligee or attorney of the obligee shall cause a certified copy of the judgment to be delivered to the life insurance company or companies.

(iv) If the obligee or the attorney of the obligee delivers a true copy of the judgment to the life insurance company or companies, identifying the policies involved and requesting such notification under this section, the company or companies shall notify the obligee, as beneficiary of the insurance policy, whenever the policyholder takes any action that will change the beneficiary or reduce the benefits of the policy. Either party may request notification by the insurer when premium payments have not been made. If the obligor is ordered to provide for and maintain life insurance, the obligor shall provide to the obligee a true copy of the policy. The obligor shall also provide to the obligee written notice of any action that will reduce the benefits or change the designation of the beneficiaries under the policy.

(g) For the creation of trusts as follows:

(A) For the appointment of one or more trustees to hold, control and manage for the benefit of the children of the parties, of the marriage or otherwise such of the real or personal property of either or both of the parties, as the court may order to be allocated or appropriated to their support and welfare, and to collect, receive, expend, manage or invest any sum of money awarded for the support and welfare of minor children of the parties.

(B) For the appointment of one or more trustees to hold, manage and control such amount of money or such real or personal property of either or both of the parties, as may be set aside, allocated or appropriated for the support of a party.

(C) For the establishment of the terms of the trust and provisions for the disposition or distribution of such money or property to or between the parties, their successors, heirs and assigns after the purpose of the trust has been accomplished. Upon petition of a party or a person having an interest in the trust showing a change of circumstances warranting a change in the terms of the trust, the court may make and direct reasonable modifications in its terms.

(h) To change the name of either spouse to a name the spouse held before the marriage. The court shall order a change if it is requested by the affected party.

(i) For a money award for any sums of money found to be then remaining unpaid upon any order or limited judgment entered under [ORS 107.095](#). If a limited judgment was entered under [ORS 107.095](#), the limited judgment shall continue to be enforceable for any amounts not paid under the limited judgment unless those amounts are included in the money award made by the general judgment.

(j) For an award of reasonable attorney fees and costs and expenses reasonably incurred in the action in favor of a party or in favor of a party's attorney.

(2) In determining the proper amount of support and the proper division of property under subsection (1)(c), (d) and (f) of this section, the court may consider evidence of the tax consequences on the parties of its proposed judgment.

(3) Upon the filing of the judgment, the property division ordered shall be deemed effective for all purposes. This transfer by judgment, which shall affect solely owned property transferred to the other spouse as well as commonly owned property in the same manner as would a declaration of a resulting trust in favor of the spouse to whom the property is awarded, is not a taxable sale or exchange.

(4) If an appeal is taken from a judgment of annulment or dissolution of marriage or of separation or from any part of a judgment rendered in pursuance of the provisions of [ORS 107.005](#) to [107.086](#), [107.095](#), [107.105](#), [107.115](#) to [107.174](#), [107.405](#), [107.425](#), [107.445](#) to [107.520](#), [107.540](#) and [107.610](#), the court rendering the judgment may provide in a supplemental judgment for any relief provided for in [ORS 107.095](#) and shall provide that the relief granted in the judgment is to be in effect only during the pendency of the appeal. A supplemental judgment under this subsection may be enforced as provided in [ORS 33.015](#) to [33.155](#) and ORS chapter 18. A supplemental judgment under this subsection may be appealed in the same manner as provided for supplemental judgments modifying a domestic relations judgment under [ORS 19.275](#).

(5) If an appeal is taken from the judgment or other appealable order in a suit for annulment or dissolution of a marriage or for separation and the appellate court awards costs and disbursements to a party, the court may also award to that party, as part of the costs, such additional sum of money as it may adjudge reasonable as an attorney fee on the appeal.

(6) If, as a result of a suit for the annulment or dissolution of a marriage or for separation, the parties to such suit become owners of an undivided interest in any real or personal property, or both, either party may maintain supplemental proceedings by filing a petition in such suit for the partition of such real or personal property, or both, within two years from the entry of the judgment, showing among other things that the original parties to the judgment and their joint or several creditors having a lien upon any such real or personal property, if any there be, constitute the sole and only necessary parties to such supplemental proceedings. The procedure in the supplemental proceedings, so far as applicable, shall be the procedure provided in [ORS 105.405](#) for the partition of real property, and the court granting the judgment shall have in the first instance and retain jurisdiction in equity therefor.

#### Credits

Laws 1971, c. 280, § 13; Laws 1973, c. 502, § 8; Laws 1975, c. 722, § 1; Laws 1975, c. 733, § 2; Laws 1977, c. 205, § 2; Laws 1977, c. 847, § 2; Laws 1977, c. 878, § 2a; Laws 1979, c. 144, § 2; Laws 1981, c. 775, § 1; Laws 1983, c. 728, § 2; Laws 1987, c. 795, § 9; Laws 1987, c. 885, § 2; Laws 1989, c. 811, § 6; [Laws 1993, c. 315, § 1](#); [Laws 1993, c. 716, § 3](#); [Laws 1995, c. 22, § 1](#); [Laws 1995, c. 608, § 3](#); [Laws 1997, c. 22, § 1](#); [Laws 1997, c. 71, § 19](#); [Laws 1997, c. 707, § 7](#); [Laws 1999, c. 587, § 1](#); [Laws 1999, c. 762, § 1](#); [Laws 2001, c. 873, § 5](#); [Laws 2003, c. 576, § 109](#); [Laws 2005, c. 536, § 7, eff. July 15, 2005](#); [Laws 2005, c. 568, § 29](#); [Laws 2007, c. 71, § 27, eff. Jan. 1, 2008](#); [Laws 2011, c. 115, § 2, eff. Jan. 1, 2012](#); [Laws 2011, c. 306, § 1, eff. Jan. 1, 2012](#); [Laws 2011, c. 438, § 4, eff. Jan. 1, 2012](#).

#### [Notes of Decisions \(1432\)](#)

O. R. S. § 107.105, OR ST § 107.105

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O.R.S. § 107.106

107.106. Additional requirements of decree providing for custody, parenting time, visitation or support of child

Currentness

(1) An order or judgment providing for the custody, parenting time, visitation or support of a child under ORS chapter 25, 107, 108, 109 or 110 or [ORS 419B.400](#) or [419C.590](#) shall include:

(a) Provisions addressing the issues of:

(A) Payment of uninsured medical expenses of the child;

(B) Maintenance of insurance or other security for support; and

(C) Medical support for the child under [ORS 25.321](#) to [25.343](#).

(b) A statement in substantially the following form:

.....

The terms of child support and parenting time (visitation) are designed for the child's benefit and not the parents' benefit. You must pay support even if you are not receiving visitation. You must comply with visitation orders even if you are not receiving child support.

Violation of child support orders and visitation orders is punishable by fine, imprisonment or other penalties.

Publicly funded help is available to establish, enforce and modify child support orders. Paternity establishment services are also available. Contact your local district attorney or the Department of Justice at (503) 373-7300 for information.

Publicly funded help may be available to establish, enforce and modify visitation orders. Forms are available to enforce visitation orders. Contact the domestic relations court clerk or civil court clerk for information.

.....

(2) The court or administrative law judge shall ensure the creation and filing of an order or judgment that complies with this section.

(3) This section does not apply to an action undertaken by the Division of Child Support of the Department of Justice or a district attorney under [ORS 25.080](#).

**Credits**

[Laws 1995, c. 800, § 9](#); [Laws 1997, c. 249, § 36](#); [Laws 1997, c. 707, § 8](#); [Laws 2003, c. 73, § 49a, eff. July 1, 2003](#); [Laws 2003, c. 75, § 83, eff. May 22, 2003](#); [Laws 2003, c. 637, § 17, eff. Oct. 1, 2003](#); [Laws 2009, c. 351, § 8, eff. Jan. 1, 2010](#).

[Notes of Decisions \(3\)](#)

O. R. S. § 107.106, OR ST § 107.106

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O.R.S. § 107.137

107.137. Factors considered in determining best interest of minor child regarding custody

Currentness

(1) Except as provided in subsection (5) of this section, in determining custody of a minor child under [ORS 107.105](#) or [107.135](#), the court shall give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court shall consider the following relevant factors:

- (a) The emotional ties between the child and other family members;
  - (b) The interest of the parties in and attitude toward the child;
  - (c) The desirability of continuing an existing relationship;
  - (d) The abuse of one parent by the other;
  - (e) The preference for the primary caregiver of the child, if the caregiver is deemed fit by the court; and
  - (f) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. However, the court may not consider such willingness and ability if one parent shows that the other parent has sexually assaulted or engaged in a pattern of behavior of abuse against the parent or a child and that a continuing relationship with the other parent will endanger the health or safety of either parent or the child.
- (2) The best interests and welfare of the child in a custody matter shall not be determined by isolating any one of the relevant factors referred to in subsection (1) of this section, or any other relevant factor, and relying on it to the exclusion of other factors. However, if a parent has committed abuse as defined in [ORS 107.705](#), other than as described in subsection (5) of this section, there is a rebuttable presumption that it is not in the best interests and welfare of the child to award sole or joint custody of the child to the parent who committed the abuse.
- (3) In determining custody of a minor child under [ORS 107.105](#) or [107.135](#), the court shall consider the conduct, marital status, income, social environment or life style of either party only if it is shown that any of these factors are causing or may cause emotional or physical damage to the child.

(4) No preference in custody shall be given to the mother over the father for the sole reason that she is the mother, nor shall any preference be given to the father over the mother for the sole reason that he is the father.

(5)(a) The court determining custody of a minor child under [ORS 107.105](#) or [107.135](#) shall not award sole or joint custody of the child to a parent if:

(A) The court finds that the parent has been convicted of rape under [ORS 163.365](#) or [163.375](#) or other comparable law of another jurisdiction; and

(B) The rape resulted in the conception of the child.

(b) A denial of custody under this subsection does not relieve the parent of any obligation to pay child support.

#### Credits

Laws 1975, c. 722, § 2; Laws 1987, c. 795, § 14; [Laws 1997, c. 707, § 35](#); [Laws 1999, c. 762, § 2](#); [Laws 2011, c. 438, § 3, eff. Jan. 1, 2012](#).

#### [Notes of Decisions \(153\)](#)

O. R. S. § 107.137, OR ST § 107.137

Current with emergency legislation through Ch. 570 of the 2013 Reg. Sess. Revisions to Acts made by the Oregon Reviser were unavailable at the time of publication.

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O.R.S. § 107.138

107.138. Temporary status quo order

Currentness

(1)(a) A court, upon the motion of a party, may enter a temporary status quo order to either party in a proceeding to modify a judgment that awards custody of a child after:

(A) Notifying the other party; and

(B) Giving the other party an opportunity to contest issuance of the order.

(b) The motion for a temporary status quo order must be supported by an affidavit setting forth with specificity the information required by [ORS 109.767](#) and the person with whom the child has lived during the preceding year and the child's current schedule, daily routine and usual place of residence.

(c) Notice to the party against whom the motion for the order is sought must be served at least 21 days before the date set for the hearing. The issue at the hearing is limited to a determination of the status quo at the time the motion for the order was filed.

(2) A temporary status quo order restrains and enjoins each parent from:

(a) Changing the child's usual place of residence;

(b) Interfering with the present placement and daily schedule of the child;

(c) Hiding or secreting the child from the other parent;

(d) Interfering with the other parent's usual contact and parenting time with the child;

(e) Leaving the state with the child without the written permission of the other parent or the permission of the court; or

(f) In any manner disturbing the current schedule and daily routine of the child until the motion for modification has been granted or denied.

(3) For purposes of this section:

(a) “Child's usual place of residence” means the place where the child is living at the time the motion for the temporary order is filed and has lived continuously for a period of three consecutive months, excluding any periods of time during which the noncustodial parent did exercise, or would otherwise have exercised, parenting time.

(b) “Parent's usual contact and parenting time,” “present placement and daily schedule of the child” and “current schedule and daily routine of the child” mean the contact, parenting time, placement, schedule and routine at the time the motion for the temporary order is filed.

#### **Credits**

[Laws 1995, c. 792, § 2](#); [Laws 1997, c. 136, § 2](#); [Laws 1997, c. 386, § 1](#); [Laws 1997, c. 707, §§ 10,10a](#); [Laws 1999, c. 649, § 47](#).

O. R. S. § 107.138, OR ST § 107.138

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O.R.S. § 107.139

107.139. Ex parte temporary custody or parenting time order

Currentness

(1)(a) Following entry of a judgment, a court may enter ex parte a temporary order providing for the custody of, or parenting time with, a child if:

(A) A parent of the child is present in court and presents an affidavit alleging that the child is in immediate danger;

(B) The parent has made a good faith effort to confer with the other party regarding the purpose and time of this court appearance; and

(C) The court finds by clear and convincing evidence, based on the facts presented in the parent's testimony and affidavit and in the testimony of the other party, if the other party is present, that the child is in immediate danger.

(b) The party requesting an order under this subsection shall provide the court with telephone numbers where the party can be reached at any time during the day and a contact address.

(c) A copy of the order and the supporting affidavit must be served on the other party in the manner of service of a summons under [ORCP 7](#). The order must include the following statement:

.....

Notice: You may request a hearing on this order as long as it remains in effect by filing with the court a request for a hearing. In the request you must tell the court and the other party that you object to the order on the ground that the child was not in immediate danger at the time the order was issued. In the request you must also inform the court of your telephone number or contact number and your current residence, mailing or contact address.

.....

(2)(a) A party against whom an order is entered under subsection (1) of this section may request a hearing by filing with the court a hearing request described in subsection (1) of this section at any time while the order is in effect.

(b) The court shall hold a hearing within 14 days after receipt of the request for the hearing. The court shall notify each party of the time, date and place of the hearing.

(c) An order issued under subsection (1) of this section remains in effect through the date of the hearing. If the party against whom the order was entered fails to appear at the hearing without good cause, the court shall continue the order in effect. If the party who obtained the order fails to appear at the hearing without good cause, the court shall vacate the order.

(d) The issue at a hearing to contest a temporary order for the custody of, or parenting time with, a child is limited to whether the child was in immediate danger at the time the order was issued.

(3) The State Court Administrator shall prescribe the content and form of a request for a hearing described in this section.

(4) A party seeking relief under this section shall concurrently file, or have pending, a motion under [ORS 107.135](#) to set aside, alter or modify any portion of the judgment that provides for custody, parenting time or visitation.

#### **Credits**

[Laws 1997, c. 386, § 2](#); [Laws 1997, c. 707, § 6a](#); [Laws 2007, c. 11, § 2, eff. Jan. 1, 2008](#); [Laws 2011, c. 114, § 3, eff. Jan. 1, 2012](#).

O. R. S. § 107.139, OR ST § 107.139

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O.R.S. § 107.145

107.145. Definitions; modification of preexisting judgment providing for custody of minor child; reinstatement of preexisting judgment; absence of child from state; attorney fees and costs

Currentness

(1) As used in this section and [ORS 107.146](#):

(a) “Deployed parent” means a parent of a minor child whose parental rights have not been terminated who is deployed with the Armed Forces of the United States, National Guard or other reserve component.

(b) “Deployment” or “deployed”:

(A) Means military service in compliance with written orders received by an active duty or reserve member of the Armed Forces of the United States, National Guard or other reserve component to report for combat operations, contingency operations, peacekeeping operations, temporary duty, a remote tour of duty or other active military service;

(B) Includes the period of time from which the deployed parent receives and is subject to written orders to deploy to the actual date of deployment; and

(C) Includes any period of time in which the deployed parent is awaiting travel to or from a deployment destination or remains deployed because of sickness, wounds, leave or other lawful cause.

(2) Notwithstanding [ORS 107.135](#) and except as provided in subsection (3) of this section, a court may not set aside, alter or modify any portion of a judgment of annulment, separation or dissolution of marriage that provides for the custody, parenting time, visitation, support and welfare of a minor child of a deployed parent until 90 days after the completion of the deployed parent's deployment unless a motion to set aside, alter or modify was filed with, heard by and decided by the court before the commencement of the deployed parent's deployment.

(3)(a) Notwithstanding [ORS 107.138](#) and [107.139](#), a court may enter a temporary order modifying the terms of a preexisting judgment of annulment, separation or dissolution of marriage that provides for the custody, parenting time, visitation, support and welfare of a minor child of a deployed parent to reasonably accommodate the circumstances of the deployed parent's deployment in the best interests of the child, upon motion filed by either party and after service of notice on the other party in the manner provided by [ORCP 7](#), and after notice to the Administrator of the Division of Child Support of the Department of Justice or the branch office providing support services when required by subsection (4) of this section. The nondeployed parent bears the burden of proof that the provisions of a temporary order made under this subsection are not in the best interests of the child.

(b) A temporary order entered under this subsection must include the following provisions:

(A) Parenting time for the deployed parent during periods of approved leave in the best interests of the child;

(B) Parenting time for the deployed parent during periods of deployment in the best interests of the child including but not limited to contact by telephone, electronic mail and other electronic means such as video and visual imaging;

(C) Modification of the child support provisions of the preexisting judgment to reflect the changed circumstances of the parents and the child during the period of deployment;

(D) A requirement that the nondeployed parent provide the court and the deployed parent with written notice 30 days prior to a change of address or telephone number during the period of deployment;

(E) That the temporary order entered under this subsection terminates by operation of law upon completion of deployment and that the provisions of the preexisting judgment that have been modified by the temporary order are automatically reinstated unless a request is made and granted under subsection (5) of this section;

(F) That all other provisions of the preexisting judgment not modified by the temporary order remain in effect; and

(G) That deployment is considered completed for purposes of reinstating the provisions of the preexisting judgment that have been modified by the temporary order 10 days after the date on which the deployed parent serves the nondeployed parent and provides to the court and to the Administrator of the Division of Child Support of the Department of Justice or the branch office providing support services to the county in which the motion is filed copies of written orders or other official notification that the deployed parent is no longer deployed or in active military service.

(4) A true copy of a motion under subsection (3) of this section shall be served by the moving party by mail or personal delivery on the Administrator of the Division of Child Support of the Department of Justice or on the branch office providing support services to the county in which the motion is filed.

(5) Prior to reinstatement of the provisions of a preexisting judgment, a parent may request ex parte a temporary order alleging that the child will be irreparably harmed or placed in immediate danger if the provisions of the preexisting judgment are automatically reinstated upon completion of deployment.

(6) When a court has entered a temporary order under subsection (3) of this section, the absence of a child from this state during a deployed parent's deployment is considered a temporary absence for purposes of the Uniform Child Custody Jurisdiction and Enforcement Act and this state shall retain exclusive continuing jurisdiction in accordance with [ORS 109.701](#) to [109.834](#).

(7) The court may award attorney fees and costs reasonably incurred in a proceeding under this section if the court finds that a party caused unreasonable delays, failed to provide information as required by this section or acted to unreasonably interfere with or frustrate contact between a deployed parent and a minor child.



**Credits**

Added by [Laws 2011, c. 64, § 2, eff. Jan. 1, 2012](#).

O. R. S. § 107.145, OR ST § 107.145

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O.R.S. § 107.146

107.146. Motion for expedited hearing; video, electronic or Internet testimony in cases where deployed parent or parent whose deployment is imminent cannot personally appear

Currentness

(1) Upon motion filed by a deployed parent or a parent whose deployment is imminent, the court shall hold an expedited hearing in:

(a) Any proceeding in a suit for marital annulment, dissolution or separation where a deployed parent or a parent whose deployment is imminent is a party;

(b) In any proceeding under [ORS 107.135](#), [107.138](#) and [107.139](#) where a deployed parent or a parent whose deployment is imminent is a party; and

(c) A proceeding under [ORS 107.145\(3\)](#).

(2) In any proceeding listed under subsection (1) of this section, whether or not a motion to expedite a hearing has been filed, the court shall make reasonable accommodations to allow a deployed parent, or a parent whose deployment is imminent, to provide video, electronic or Internet testimony if the proceeding involves the custody, parenting time, visitation, support and welfare of the parent's child and where the deployed parent or the parent whose deployment is imminent cannot personally appear.

**Credits**

Added by [Laws 2011, c. 64, § 3, eff. Jan. 1, 2012](#).

O. R. S. § 107.146, OR ST § 107.146

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O.R.S. § 107.149

107.149. Public policy regarding parents and their children

[Currentness](#)

It is the policy of this state to assure minor children of frequent and continuing contact with parents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their children after the parents have separated or dissolved their marriage.

**Credits**

Laws 1987, c. 795, § 2.

[Notes of Decisions \(1\)](#)

O. R. S. § 107.149, OR ST § 107.149

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O.R.S. § 107.154

107.154. Effect of order granting sole custody on authority of other parent

Currentness

Unless otherwise ordered by the court, an order of sole custody to one parent shall not deprive the other parent of the following authority:

- (1) To inspect and receive school records and to consult with school staff concerning the child's welfare and education, to the same extent as the custodial parent may inspect and receive such records and consult with such staff;
- (2) To inspect and receive governmental agency and law enforcement records concerning the child to the same extent as the custodial parent may inspect and receive such records;
- (3) To consult with any person who may provide care or treatment for the child and to inspect and receive the child's medical, dental and psychological records, to the same extent as the custodial parent may consult with such person and inspect and receive such records;
- (4) To authorize emergency medical, dental, psychological, psychiatric or other health care for the child if the custodial parent is, for practical purposes, unavailable; or
- (5) To apply to be the child's conservator, guardian ad litem or both.

**Credits**

Laws 1987, c. 795, § 3.

O. R. S. § 107.154, OR ST § 107.154

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O.R.S. § 107.159

107.159. Requirement of notice when parent to changes residence more than 60 miles from other parent

Currentness

(1) In any court order or judgment granting custody of a minor child and parenting time or visitation rights relating to the child, except for an order under [ORS 107.700](#) to [107.735](#), the court shall include in its order a provision requiring that neither parent may move to a residence more than 60 miles further distant from the other parent without giving the other parent reasonable notice of the change of residence and providing a copy of such notice to the court.

(2) Notwithstanding subsection (1) of this section, a parent is not required to give notice of a change of residence if the court, upon ex parte or other motion of the parent and for good cause, enters an order suspending the requirement.

**Credits**

Laws 1987, c. 795, § 4; [Laws 1997, c. 707, § 11](#); [Laws 2003, c. 576, § 113](#).

O. R. S. § 107.159, OR ST § 107.159

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O.R.S. § 107.164

107.164. Responsibility to notify other parent of emergency  
circumstances or substantial change in health of child

Currentness

Unless otherwise ordered by the court, both parents shall have a continuing responsibility, once a custody or protective order concerning the child is issued, to provide addresses and contact telephone numbers to the other parent and to immediately notify the other parent of any emergency circumstances or substantial changes in the health of the child.

**Credits**

Laws 1987, c. 795, § 5.

O. R. S. § 107.164, OR ST § 107.164

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O.R.S. § 107.169

107.169. Joint custody; order; modification

Currentness

<Text subject to final change by the Oregon Office of the Legislative Counsel.>

(1) As used in this chapter, “joint custody” means an arrangement by which parents share rights and responsibilities for major decisions concerning the child, including, but not limited to, the child's residence, education, health care and religious training. An order providing for joint custody may specify one home as the primary residence of the child and designate one parent to have sole power to make decisions about specific matters while both parents retain equal rights and responsibilities for other decisions.

(2) The existence of an order of joint custody shall not, by itself, determine the responsibility of each parent to provide for the support of the child.

(3) The court shall not order joint custody, unless both parents agree to the terms and conditions of the order.

(4) When parents have agreed to joint custody in an order or a judgment, the court may not overrule that agreement by ordering sole custody to one parent.

(5) Modification of a joint custody order shall require showing of changed circumstances and a showing that the modification is in the best interests of the child such as would support modification of a sole custody order. Inability or unwillingness to continue to cooperate shall constitute a change of circumstances sufficient to modify a joint custody order.

(6)(a) The inability of a parent to comply with the terms and conditions of a joint custody order due to the parent's temporary absence does not constitute a change of circumstances if the parent's temporary absence is caused by the parent being:

(A) Called into state active duty as defined in the Oregon Code of Military Justice; or

(B) Called into active federal service under Title 10 of the United States Code as a member of the Oregon National Guard.

(b) As used in this subsection, “temporary absence” means a period not exceeding 30 consecutive months.

**Credits**

Laws 1987, c. 795, § 6; [Laws 2003, c. 576, § 114](#); [Laws 2005, c. 79, § 3](#), eff. May 25, 2005; [Laws 2013, c. 81, § 21](#), eff. May 9, 2013.

[Notes of Decisions \(11\)](#)

O. R. S. § 107.169, OR ST § 107.169

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O.R.S. § 107.174

107.174. Modification of order for parenting by stipulation; non-resident child

Currentness

(1) Except as otherwise provided in this subsection, the court shall order modification under [ORS 107.135](#) of so much of a judgment as relates to the parenting time with a minor child, if the parents submit to the court a notarized stipulation signed by both of the parents and requesting such modification together with a form of order. The content and form of such stipulation and order shall be as prescribed by the State Court Administrator. At its discretion, the court may order the matter set for a hearing and require the parties to appear personally before the court.

(2) This section shall not apply when the child to whom a duty of support is owed is in another state which has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal jurisdiction under that Act to determine custody and parenting time rights.

**Credits**

Laws 1987, c. 795, § 12; [Laws 1997, c. 707, § 12](#); [Laws 1999, c. 649, § 48](#); [Laws 2003, c. 576, § 115](#).

[Notes of Decisions \(2\)](#)

O. R. S. § 107.174, OR ST § 107.174

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O.R.S. § 107.179

107.179. Objection to request for joint custody; mediation

Currentness

(1) When either party to a child custody issue, other than one involving temporary custody, whether the issue arises from a case of marital annulment, dissolution or separation, or from a determination of paternity, requests the court to grant joint custody of the minor children of the parties under [ORS 107.105](#), the court, if the other party objects to the request for joint custody, shall proceed under this section. The request under this subsection must be made, in the petition or the response, or otherwise not less than 30 days before the date of trial in the case, except for good cause shown. The court in such circumstances, except as provided in subsection (3) of this section, shall direct the parties to participate in mediation in an effort to resolve their differences concerning custody. The court may order such participation in mediation within a mediation program established by the court or as conducted by any mediator approved by the court. Unless the court or the county provides a mediation service available to the parties, the court may order that the costs of the mediation be paid by one or both of the parties, as the court finds equitable upon consideration of the relative ability of the parties to pay those costs. If, after 90 days, the parties do not arrive at a resolution of their differences, the court shall proceed to determine custody.

(2) At its discretion, the court may:

(a) Order mediation under this section prior to trial and postpone trial of the case pending the outcome of the mediation, in which case the issue of custody shall be tried only upon failure to resolve the issue of custody by mediation;

(b) Order mediation under this section prior to trial and proceed to try the case as to issues other than custody while the parties are at the same time engaged in the mediation, in which case the issue of custody shall be tried separately upon failure to resolve the issue of custody by mediation; or

(c) Complete the trial of the case on all issues and order mediation under this section upon the conclusion of the trial, postponing entry of the judgment pending outcome of the mediation, in which case the court may enter a limited judgment as to issues other than custody upon completion of the trial or may postpone entry of any judgment until the expiration of the mediation period or agreement of the parties as to custody.

(3) If either party objects to mediation on the grounds that to participate in mediation would subject the party to severe emotional distress and moves the court to waive mediation, the court shall hold a hearing on the motion. If the court finds it likely that participation in mediation will subject the party to severe emotional distress, the court may waive the requirement of mediation.

(4) Communications made by or to a mediator or between parties as a part of mediation ordered under this section are privileged and are not admissible as evidence in any civil or criminal proceeding.

**Credits**

Laws 1987, c. 795, § 13; [Laws 2003, c. 576, § 116](#).

O. R. S. § 107.179, OR ST § 107.179

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O.R.S. § 107.415

107.415. Notification by custodial parent of change of status of minor child

Currentness

(1) If a party is required by a judgment of a court in a domestic relations suit, as defined in [ORS 107.510](#), to contribute to the support, nurture or education of a minor child while the other party has custody thereof, the custodial parent shall notify the party contributing such money when the minor child receives income from the gainful employment of the child, or is married or enters the military service.

(2) Any custodial parent who does not provide notice, as required by subsection (1) of this section may be required by the court to make restitution to the contributing party of any money paid, as required by the judgment. The court may enter a supplemental judgment or satisfy all or part of the support award to accomplish the restitution.

**Credits**

Laws 1971, c. 314, § 1; [Laws 2003, c. 576, § 120](#).

[Notes of Decisions \(7\)](#)

O. R. S. § 107.415, OR ST § 107.415

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## Dissolution, Annulment and Separation (Refs &amp; Annos)

## O.R.S. § 107.425

107.425. Investigation of parties in domestic relations suit involving children; physical, psychological, psychiatric or mental health examinations; parenting plan services; counsel for children

## Currentness

(1) In suits or proceedings described in subsection (4) of this section in which there are minor children involved, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability and financial worth of the parties for the purpose of protecting the children's future interest. The court may defer the entry of a general judgment until the court is satisfied that its judgment in such suit or proceeding will properly protect the welfare of such children. The investigative findings shall be offered as and subject to all rules of evidence. Costs of the investigation may be charged against one or more of the parties or as a cost in the proceedings but shall not be charged against funds appropriated for public defense services.

(2) The court, on its own motion or on the motion of a party, may order an independent physical, psychological, psychiatric or mental health examination of a party or the children and may require any party and the children to be interviewed, evaluated and tested by an expert or panel of experts. The court may also authorize the expert or panel of experts to interview other persons and to request other persons to make available to the expert or panel of experts records deemed by the court or the expert or panel of experts to be relevant to the evaluation. The court may order the parties to authorize the disclosure of such records. In the event the parties are unable to stipulate to the selection of an expert or panel of experts to conduct the examination or evaluation, the court shall appoint a qualified expert or panel of experts. The court shall direct one or more of the parties to pay for the examination or evaluation in the absence of an agreement between the parties as to the responsibility for payment but shall not direct that the expenses be charged against funds appropriated for public defense services. If more than one party is directed to pay, the court may determine the amount that each party will pay based on financial ability.

(3)(a) In addition to an investigation, examination or evaluation under subsections (1) and (2) of this section, the court may appoint an individual or a panel or may designate a program to assist the court in creating parenting plans or resolving disputes regarding parenting time and to assist parents in creating and implementing parenting plans. The services provided to the court and to parents under this section may include:

(A) Gathering information;

(B) Monitoring compliance with court orders;

(C) Providing the parents, their attorneys, if any, and the court with recommendations for new or modified parenting time provisions; and

(D) Providing parents with problem solving, conflict management and parenting time coordination services or other services approved by the court.

(b) Services provided under this section may require the provider to possess and utilize mediation skills, but the services are not comprised exclusively of mediation services under [ORS 107.755](#) to [107.795](#). If only mediation services are provided, the provisions of [ORS 107.755](#) to [107.795](#) apply.

(c) The court may order one or more of the parties to pay for services provided under this subsection, if the parties are unable to agree on their respective responsibilities for payment. The court may not order that expenses be charged against funds appropriated for public defense services.

(d) The presiding judge of each judicial district shall establish qualifications for the appointment and training of individuals and panels and the designation of programs under this section. In establishing qualifications, a presiding judge shall take into consideration any guidelines recommended by the statewide family law advisory committee.

(4) The provisions of this section apply when:

(a) A person files a domestic relations suit, as defined in [ORS 107.510](#);

(b) A motion to modify an existing judgment in a domestic relations suit is before the court;

(c) A parent of a child born to an unmarried woman initiates a civil proceeding to determine custody or support under [ORS 109.103](#);

(d) A person petitions or files a motion for intervention under [ORS 109.119](#);

(e) A person or the administrator files a petition under [ORS 109.125](#) to establish paternity and paternity is established; or

(f) A habeas corpus proceeding is before the court.

(5) Application of the provisions of subsection (1), (2) or (3) of this section to the proceedings under subsection (4) of this section does not prevent initiation, entry or enforcement of an order of support.

(6) The court, on its own motion or on the motion of a party, may appoint counsel for the children. However, if requested to do so by one or more of the children, the court shall appoint counsel for the child or children. A reasonable fee for an attorney so appointed may be charged against one or more of the parties or as a cost in the proceedings but shall not be charged against funds appropriated for public defense services.

(7) Prior to the entry of an order, the court on its own motion or on the motion of a party may take testimony from or confer with the child or children of the marriage and may exclude from the conference the parents and other persons if the court finds that such action would be likely to be in the best interests of the child or children. However, the court shall permit an attorney for each party to attend the conference and question the child, and the conference shall be reported.

#### **Credits**

Laws 1971, c. 280, § 3; Laws 1973, c. 502, § 11; Laws 1981, c. 775, § 5; Laws 1981, Sp. Sess., c. 3, § 34; Laws 1983, c. 369, § 1; Laws 1983, c. 386, § 1; Laws 1989, c. 188, § 1; Laws 1989, c. 1084, § 1; [Laws 1999, c. 569, § 4](#); [Laws 2001, c. 873, §§ 6, 6a, 6c](#); [Laws 2003, c. 73, §§ 51, 52, eff. July 1, 2003](#); [Laws 2003, c. 576, §§ 121, 122](#); [Laws 2007, c. 454, § 12, eff. Jan. 1, 2008](#).

#### [Notes of Decisions \(15\)](#)

O. R. S. § 107.425, OR ST § 107.425

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West's Oregon Revised Statutes Annotated

Title 11. Domestic Relations

Chapter 107. Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services;

Family Abuse Prevention (Refs & Annos)

Dissolution, Annulment and Separation (Refs & Annos)

O.R.S. § 107.431

107.431. Modification of judgment relating to parenting time with minor child; procedure

Currentness

(1) At any time after a judgment of annulment or dissolution of a marriage or a separation is granted, the court may set aside, alter or modify so much of the judgment relating to parenting time with a minor child as it deems just and proper or may terminate or modify that part of the order or judgment requiring payment of money for the support of the minor child with whom parenting time is being denied after:

- (a) Motion to set aside, alter or modify is made by the parent having parenting time rights;
- (b) Service of notice on the parent or other person having custody of the minor child is made in the manner provided by law for service of a summons;
- (c) Service of notice on the Administrator of the Division of Child Support of the Department of Justice when the child support rights of one of the parties or of a child of both of the parties have been assigned to the state. As an alternative to the service of notice on the administrator, service may be made upon the branch office of the division which provides service to the county in which the motion was filed. Service may be accomplished by personal delivery or first class mail; and
- (d) A showing that the parent or other person having custody of the child or a person acting in that parent or other person's behalf has interfered with or denied without good cause the exercise of the parent's parenting time rights.

(2) When a party moves to set aside, alter or modify the child support provisions of the judgment:

- (a) The party shall state in the motion, to the extent known:
  - (A) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child, including a proceeding brought under [ORS 25.287](#), [107.135](#), [109.100](#), [125.025](#), [416.400](#) to [416.465](#), [419B.400](#) or [419C.590](#) or ORS chapter 110; and
  - (B) Whether there exists in this state or any other jurisdiction a support order, as defined in [ORS 110.303](#), involving the child, other than the judgment the party is moving to set aside, alter or modify.



- (b) The party shall include with the motion a certificate regarding any pending support proceeding and any existing support order other than the judgment the party is moving to set aside, alter or modify. The party shall use a certificate that is in a form established by court rule and include information required by court rule and paragraph (a) of this subsection.
- (3) The court may request the appearance of the administrator in any proceeding under this section in which it finds that the child support rights of one of the parties or of a child of both of the parties have been assigned to the state.
- (4) This section does not apply when the child to whom a duty of support is owed is in another state that has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal jurisdiction under that Act to determine custody and parenting time rights.

#### **Credits**

Laws 1977, c. 878, § 4; Laws 1979, c. 482, § 2; [Laws 1997, c. 707, § 13](#); [Laws 1999, c. 649, § 49](#); [Laws 2001, c. 334, § 5](#); [Laws 2003, c. 116, § 5](#); [Laws 2003, c. 576, § 123](#).

#### [Notes of Decisions \(7\)](#)

O. R. S. § 107.431, OR ST § 107.431

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West's Oregon Revised Statutes Annotated

Title 11. Domestic Relations

Chapter 107. Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services;

Family Abuse Prevention (Refs & Annos)

Dissolution, Annulment and Separation (Refs & Annos)

O.R.S. § 107.434

107.434. Expedited parenting time enforcement procedure;  
contents of order requiring parties to appear; remedies

Currentness

(1) The presiding judge of each judicial district shall establish an expedited parenting time enforcement procedure that may or may not include a requirement for mediation. The procedure must be easy to understand and initiate. Unless the parties otherwise agree, the court shall conduct a hearing no later than 45 days after the filing of a motion seeking enforcement of a parenting time order. The court shall provide forms for:

(a) A motion filed by either party alleging a violation of parenting time or substantial violations of the parenting plan. When a person files this form, the person must include a copy of the order establishing the parenting time.

(b) An order requiring the parties to appear and show cause why parenting time should not be enforced in a specified manner. The party filing the motion shall serve a copy of the motion and the order on the other party. The order must include:

(A) A notice of the remedies imposable under subsection (2) of this section and the availability of a waiver of any mediation requirement; and

(B) A notice in substantially the following form:

.....

When pleaded and shown in a separate legal action, violation of court orders, including visitation and parenting time orders, may also result in a finding of contempt, which can lead to fines, imprisonment or other penalties, including compulsory community service.

.....

(c) A motion, affidavit and order that may be filed by either party and providing for waiver of any mediation requirement on a showing of good cause.

(2) In addition to any other remedy the court may impose to enforce the provisions of a judgment relating to the parenting plan, the court may:

(a) Modify the provisions relating to the parenting plan by:

(A) Specifying a detailed parenting time schedule;

(B) Imposing additional terms and conditions on the existing parenting time schedule; or

(C) Ordering additional parenting time, in the best interests of the child, to compensate for wrongful deprivation of parenting time;

(b) Order the party who is violating the parenting plan provisions to post bond or security;

(c) Order either or both parties to attend counseling or educational sessions that focus on the impact of violation of the parenting plan on children;

(d) Award the prevailing party expenses, including, but not limited to, attorney fees, filing fees and court costs, incurred in enforcing the party's parenting plan;

(e) Terminate, suspend or modify spousal support;

(f) Terminate, suspend or modify child support as provided in [ORS 107.431](#); or

(g) Schedule a hearing for modification of custody as provided in [ORS 107.135 \(11\)](#).

#### Credits

[Laws 1997, c. 707, § 3](#); [Laws 2003, c. 116, § 6](#); [Laws 2003, c. 737, § 50](#), eff. Aug. 29, 2003; [Laws 2003, c. 737, § 51](#), eff. July 1, 2005; [Laws 2005, c. 702, §§ 57, 58](#), eff. Aug. 3, 2005; [Laws 2005, c. 702, § 59](#), eff. Jan. 1, 2007; [Laws 2007, c. 493, § 14](#), eff. Jan. 1, 2008; [Laws 2011, c. 595, § 75](#), eff. July 1, 2011, operative Oct. 1, 2011.

#### [Notes of Decisions \(2\)](#)

O. R. S. § 107.434, OR ST § 107.434

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West's Oregon Revised Statutes Annotated

Title 11. Domestic Relations

Chapter 107. Marital Dissolution, Annulment and Separation; Mediation and Conciliation Services;

Family Abuse Prevention (Refs & Annos)

Dissolution, Annulment and Separation (Refs & Annos)

O.R.S. § 107.437

107.437. Ex parte application for order of assistance to gain custody of child held in violation of custody order

Currentness

(1) A person entitled to physical custody of a child may make an ex parte application for an order of assistance to a court of any county:

(a) In which a child is located if the person is entitled to the physical custody of the child under a valid and current order issued in this state; or

(b) In which a valid and current foreign custody order has been filed with a petition as provided in subsection (3) of this section.

(2) The application must include a certified copy of the custody order. The order of assistance may direct a law enforcement agency having jurisdiction where the child is located to use any reasonable means and force to deliver the child as directed by the court, including directing forcible entry into specified premises. The court may issue an order of assistance upon the sworn affidavit of the applicant and a finding of the court that:

(a) The applicant is entitled to physical custody of the child under a valid and current custody order; and

(b) The child is being held by another person in substantial violation of the custody order.

(3) When the application for an order of assistance is made to a court in which the custody order has been entered or registered, the applicant shall make the application in the form of a motion. In all other cases, the applicant shall make the application in the form of a petition. The court may not charge a filing fee for a motion or petition filed under this section.

(4) The law enforcement agency to which an order of assistance is directed shall make a return to the court specifying whether the order was executed, and if so, a statement reflecting the date on which the order was executed and any other information required by the court in the order of assistance.

(5) A court may not issue an order of assistance for the purpose of enforcing parenting time or visitation rights.

(6) Except for intentional torts committed outside the scope of the peace officer's duties, a peace officer is not civilly or criminally liable for any action taken in recovering the custody of a child pursuant to an order issued under this section.

**Credits**

Laws 1997, c. 529, § 1; Laws 1999, c. 59, § 20; Laws 1999, c. 1081, § 6; Laws 2007, c. 255, § 5, eff. June 1, 2007.

O. R. S. § 107.437, OR ST § 107.437

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